

**UNITED STATES DEPARTMENT OF AGRICULTURE**

Farm Service Agency  
Washington, DC 20250

**Notice FC-177**

1951-S

**For:** State and County Offices

**Income Tax Liability Resulting From Debt Writedown**

**Approved by:** Deputy Administrator, Farm Loan Programs

*Carolyn B. Cooksie*

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**1 Overview**

**A**

**Background**

As a result of the Civil Rights Action Team report, it was determined that, in applicable cases, a borrower's anticipated tax liability was not being factored in the cash flow when a loan is written down. If the borrower's tax estimate meets the requirements of subparagraph 2 B, the tax liability will be considered in the cash flow to determine whether the borrower will have a feasible plan.

**B**

**Purpose**

This notice provides a reminder and guidance on how to consider a borrower's submission of estimated tax liability in the calculation of debt writedown.

**C**

**Contact**

State Offices shall contact LSPMD through the Area Office.

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**Disposal Date**

April 1, 1999

**Distribution**

State Offices; State Offices relay to County  
Offices

4-7-98

## 2 Tax Estimate for Debt Writedown

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### A

#### Tax Liability for Debt Restructure

FmHA Instruction 1951-S, Exhibit F states that debt writedown may result in added Federal income tax liability to the borrower. IRS treats discharged debt as taxable income under certain conditions. Therefore, a borrower offered writedown on Exhibit F may submit an estimate of Federal income tax attributable to debt writedown, so that the farm loan official can more accurately determine the feasibility of the borrower's farm plan.

**Note:** FSA employees shall not give tax advice to borrowers. Since most employees have limited knowledge of tax laws, borrowers should be referred to their professional tax consultants.

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### B

#### Tax Estimate Supporting Documentation

Documentation shall be provided to support the tax estimate for the debt writedown. The farm loan official shall accept the estimate only if the following conditions are met:

- the estimate does not exceed the principal debt writedown by:
  - 33 percent for individuals
  - 34 percent for corporations

**Note:** These percentages represent the maximum tax rates by law.

- the estimate does not include tax on interest debt written down
- the estimate is signed by a professional tax consultant
- consideration of the tax estimate does not delay FSA's 60 calendar day required response time to the borrower.

If the estimate is received within FSA's 60 calendar day required period, the farm loan official will:

- change the borrowers farm plan accordingly
- rerun DALR\$ to determine whether additional writedown is necessary or whether buyout should be offered instead.

If the estimate is not accepted by FSA, the borrower may still accept FSA's offer of writedown within the 90 calendar days specified in FmHA Instruction 1951-S, Exhibit F.

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## **Notice FC-177**

### **3 Action**

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#### **A**

##### **State Office Action**

SED's shall ensure that CED's and Ag Credit Managers comply with this notice.

State Offices may implement the requirements of this notice through issuance of a State notice or instruction. Any revisions or modifications to this notice must be approved by DAFLP, unless revision is specifically required by State law.

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#### **B**

##### **County Office Action**

CED's and Ag Credit Managers shall ensure that each employee fully understands the procedure for considering tax liability when calculating debt restructure.

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